



CONNECTICUT BANKERS ASSOCIATION

March 14, 2012

To: Members of the Judiciary Committee

Fr: Connecticut Bankers Association
Contacts: Tom Mongellow, Fritz Conway

Re: HB 5427, An Act Concerning Notice To The Attorney General Of Data Security Breaches Involving The Disclosure Of Personal Information

Position: Oppose as Drafted.

House Bill 5427 would require that in the event of any "breach of security" involving personal information, a business would have to provide the Attorney General's office with notice of that breach. The notice would be required in all instances involving unauthorized access; even when there is no likelihood that a Connecticut resident would be harmed; and even if the breach is already being reported to another agency or regulator.

Under existing Connecticut law, notification to consumers is required *unless* the institution reasonably determines that the breach *will not likely result in harm*. This filtering standard serves an important function because many data breach events involve little or no risk of actual harm to the consumer. As a result, Connecticut residents are only given notice when it is important for them to pay attention. The same standard should apply with respect to any required notices to the Attorney General. Without that filtering standard, the notice requirement would be imposed (and compliance burdens would be placed on Connecticut businesses) in unnecessary situations. Moreover, the AG's office could very likely be overwhelmed with notices, thereby creating the potential for unnecessary inquiries and investigations.

Financial institutions, in particular, are also concerned about another issue. Under existing federal law (i.e., the Gramm-Leach-Bliley Act), financial institutions are subject to a comprehensive set of information security requirements. Within that federal framework, banks and other financial institutions are routinely examined for compliance. Those examinations are

conducted by a primary or functional regulator that is familiar with the products, services and systems of the financial institution. In recognition of this parallel regulatory framework, *current* Connecticut law permits these financial institutions to comply with Connecticut law by complying with federal law (including the federal notice requirements). The bill, as presently drafted, would disrupt this important safe harbor compliance provision.

We believe that the existing framework provides adequate protection for Connecticut residents. Nevertheless, we understand the interests of the Attorney General in having state officials notified when a data breach occurs. The CBA would look forward to working with this Committee and the AG's office to ensure that meaningful notice is provided to the State without creating unnecessary or duplicative regulatory compliance burdens.